

**IN THE HIGH COURT OF UTTARAKHAND AT
NAINITAL**

Writ Petition No. 765 (S/S) 2001

Ganesh Giri S/o Sri Jgadish Giri,
Village Bhusori, Tehsil-Almora,
District Almora.

.....Petitioner

Versus

1. Union of India through Secretary
Ministry of Home Affairs, New Delhi,
2. Commandant Group Centre S.S.B.,
Almora, (Uttarakhand),
3. Director General of Secretary,
Office of Commandant, Training Centre,
S.S.B. Kuarsain, Post Office,
Sharambal Camp,
District Shimla (H.P.) 172029.

.....Respondents.

Sri A.D. Tripathi, learned counsel for the petitioner,
Smt. Anjali Bhargava, learned Standing Counsel for Union of India.

Hon'ble M.M. Ghildiyal, J.

Heard Sri A.D. Tripathi, learned counsel for the petitioner and Smt. Anjali Bhargava, learned Standing Counsel for Union of India/ respondents.

By means of this writ petition, the petitioner has prayed for the following reliefs:-

- A. Issue a writ, order or direction in the nature of certiorari to quash the impugned order/ notice dated 23.02.2001 passed by the respondent no. 2 (contained in annexure-1),
- B. Issue a writ, order or direction in the nature of mandamus commanding the respondent not to expel the petitioner from the training, during the pendency of the writ petition,
- C. Issue a writ, order or direction in the nature of which this Hon'ble Court may deem fit and proper in the circumstances of the case.
- D. Award the cost of the writ petition to the petitioner.

The petitioner was appointed on the post of Constable/ Orderly in S.S.B. vide appointment letter dated 04.09.2000 on the assumption that he fulfilled the requirement of minimum height of 165 cms. At the time of basic training, it was found that petitioner's height was less than 165 cms. The Medical Board headed by Chief Medical Officer was constituted, Which Board headed by Chief Medical Officer was constituted, which has also confirmed that the height of the petitioner was less than 165 cms. In view of the report of Medical Board, appointment of the petitioner was cancelled vide order dated cancelled vide order dated 13.06.2001 on the similar circumstances, as he also did not fulfill the required measurement of his height. Sri Kuber Singh preferred writ petition no. 3250/01 before this Court, which was dismissed by the learned single Judge on 28.07.2006. Aggrieved with the order dated 28.07.2006 passed in writ petition no. 3250/01 Sri Kuber Singh filed Special Appeal bearing no. 71/06 which was also dismissed by the Division Bench of this Court on 28.08.2006

Since the controversy raised by means of present writ petition is same, which has already been decided by the learned Single Judge in writ petition no. 3250/01 and the order of the learned Single Judge has been confirmed by Hon'ble the Division Bench of this Court on 28.08.2006, hence the present petition fails and is dismissed accordingly. No order as to costs.

(M.M.Ghidiyal,J.)

March 1, 2007;

NCM: